

HOUSE BILL No. 1304

DIGEST OF INTRODUCED BILL

Citations Affected: IC 33-24-4-2; IC 33-25-4-2; IC 33-28-1; IC 33-29-1-6; IC 33-35-3-1; IC 33-43.

Synopsis: Court clerks and paralegals. Requires the clerk of the supreme court to create and maintain a registry of certain paralegals and court clerks. Requires a new clerk for the: (1) court of appeals; (2) superior courts; (3) circuit courts; and (4) city and town courts; to register with the clerk of the supreme court not later than 30 days after beginning employment. Establishes professional standards for certain paralegals. Requires certain paralegals to comply with prescribed professional standards. Requires certain paralegals to register with the clerk of the supreme court not later than 30 days after beginning employment. Makes it a Class C infraction for certain paralegals to perform work without being registered with the clerk of the supreme court. Makes it a Class C infraction for court clerks to work without being registered with the clerk of the supreme court. Allows current paralegals and court clerks to register with the supreme court without meeting specified registration requirements under certain circumstances.

Effective: July 1, 2016.

Brown T, Klinker

January 19, 2016, read first time and referred to Committee on Courts and Criminal Code.



Second Regular Session of the 119th General Assembly (2016)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2015 Regular Session of the General Assembly.

HOUSE BILL No. 1304

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 33-24-4-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. (a) The clerk of the
3 supreme court shall do the following:

4 (1) Reside, and keep the clerk's office open, in a building
5 provided for that purpose by the state, at the seat of government,
6 from 9 a.m. until 4 p.m. of every day in the year except Sundays
7 and Independence Day.

8 (2) Procure and preserve in the office all records and other books
9 and stationery required by the court.

10 (3) Attend, in person or by deputy, the terms of the court.

11 (4) Administer all oaths authorized by law.

12 (5) Sign and seal, with the seal, and issue all process required to
13 be issued from the court, under the clerk's hand.

14 (6) Endorse the time of filing books, records, or writings required
15 to be filed or deposited in the clerk's office.

16 (7) Make a complete record of all causes finally determined in the
17 court, except the transcript of the court below.



(8) Not later than July 1, 2017, create and maintain a registry of all paralegals described under IC 33-43-5.

(9) Not later than July 1, 2017, create and maintain a registry of all court clerks as described under IC 33-43-6.

(10) Issue registration cards to eligible paralegals that register with the clerk of the supreme court as described under IC 33-43-5-6(a).

(11) Issue registration cards to eligible court clerks that register with the clerk of the supreme court as described under IC 33-43-6-3(a).

(b) The clerk of the supreme court may adopt rules in order to implement the requirements set forth in subsection (a)(8), (a)(9), (a)(10), and (a)(11).

SECTION 2. IC 33-25-4-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 2. (a) The court of appeals may appoint personnel as the court determines necessary.

(b) The judges of each geographic district may appoint court clerks, law clerks, secretaries, and other personnel necessary for the holding of court and the administration of the court's duties.

(c) Not later than July 1, 2017, a court clerk that has been appointed under subsection (b) shall register with the clerk of the supreme court for inclusion in the supreme court's clerk registry described under IC 33-24-4-2(a)(9). A clerk for the court of appeals shall register with the supreme court not later than thirty (30) days after beginning initial employment with the court of appeals.

(d) If a court clerk described in subsection (c):

(1) resigns;

(2) is terminated; or

(3) completes the court clerk's allotted term;

the court of appeals shall notify the clerk of the supreme court of the departure, resignation, or termination of the court clerk not later than thirty (30) days after the departure of the court clerk.

SECTION 3. IC 33-28-1-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 5. A circuit court may do the following:

(1) Issue and direct all processes necessary to the regular execution of the law to the following:

(A) A court of inferior jurisdiction.

(B) A corporation.

(C) An individual.

(2) Make all proper judgments, sentences, decrees, orders, and injunctions, issue all processes, and do other acts as may be



proper to carry into effect the same, in conformity with Indiana laws and Constitution of the State of Indiana.

(3) Administer all necessary oaths.

(4) Punish, by fine or imprisonment, or both, all contempts of the court's authority.

(5) Proceed in any matter before the court, or in any matter in which the proceedings of the court, or the due course of justice, is interrupted.

(6) Grant commissions for the examination of witnesses according to the regulations of law.

(7) Appoint court clerks, law clerks, secretaries, and other personnel necessary for the holding of court and the administration of the court's duties.

SECTION 4. IC 33-28-1-5.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 5.5. (a) Not later than July 1, 2017, a court clerk appointed under section 5(7) of this chapter shall register with the clerk of the supreme court for inclusion in the supreme court's clerk registry described under IC 33-24-4-2(a)(9). A clerk for a circuit court shall register with the supreme court not later than thirty (30) days after beginning initial employment with a circuit court.**

(b) If a court clerk described in subsection (a):

(1) resigns;

(2) is terminated; or

(3) completes the court clerk's allotted term;

the circuit court shall notify the clerk of the supreme court of the departure, resignation, or termination of the court clerk not later than thirty (30) days after the departure of the court clerk.

SECTION 5. IC 33-29-1-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: **Sec. 6. (a) The clerk of a standard superior court, under the direction of the judge of the court, shall provide:**

(1) order books and fee books;

(2) judgment dockets and execution dockets; and

(3) other books for the court;

that must be kept separately from the books and papers of other courts.

(b) Not later than July 1, 2017, a clerk of a standard superior court shall register with the clerk of the supreme court for inclusion in the supreme court's clerk registry described under IC 33-24-4-2(a)(9). A clerk for a standard superior court shall register with the supreme court not later than thirty (30) days after



beginning employment with the standard superior court.

(c) If a clerk described in subsection (b):

(1) resigns;

(2) is terminated; or

(3) completes the clerk's allotted term;

the standard superior court shall notify the clerk of the supreme court of the departure, resignation, or termination of the clerk not later than thirty (30) days after the departure of the clerk.

SECTION 6. IC 33-35-3-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]: Sec. 1. (a) The officers of a city court are a:

(1) judge;

(2) clerk; and

(3) bailiff.

However, in third class cities, the judge may act as clerk and perform all duties of the clerk of the court or appoint a clerk of the court. If the judge does not act as clerk of the court or appoint a clerk of the court, the city clerk-treasurer elected under IC 3-10-6 shall perform the duties of the clerk of the city court.

(b) The clerk is an officer of a town court. The judge of a town court may act as clerk and perform all duties of the clerk of the court or appoint a clerk of the court. If the judge does not act as a clerk of the court or appoint a clerk of the court, the town clerk-treasurer elected under IC 3-10-6 or IC 3-10-7 shall perform the duties of the clerk of the town court.

(c) The clerk and bailiff may not receive any fees or compensation other than their salaries.

(d) Not later than July 1, 2017, a clerk described in subsection (a)(2) shall register with the clerk of the supreme court for inclusion in the supreme court's clerk registry described under IC 33-24-4-2(a)(9). A clerk for a city or town court shall register with the supreme court not later than thirty (30) days after beginning initial employment with the city or town court.

(e) If a clerk described in subsection (d):

(1) resigns;

(2) is terminated; or

(3) completes the clerk's allotted term;

the city or town court shall notify the clerk of the supreme court of the departure, resignation, or termination of the clerk not later than thirty (30) days after the departure of the clerk.

SECTION 7. IC 33-43-5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY



1, 2016]:

Chapter 5. Paralegals

Sec. 1. This chapter shall not apply to a paralegal employed by the state of Indiana or a federal agency.

Sec. 2. Not later than July 1, 2017, and except as provided in section 11 of this chapter, an individual employed as a paralegal must comply with this chapter.

Sec. 3. (a) As used in this chapter, "approved paralegal program" means:

(1) a program approved by the American Bar Association (ABA) or a program that is in substantial compliance with ABA guidelines; and

(2) a program that is accredited by a nationally recognized accrediting agency.

(b) As used in this chapter, "paralegal" means an individual who is qualified through education, training, or work experience and is employed by a lawyer, law office, corporation, governmental agency, or other entity to work under the direction of an attorney in a capacity that involves the performance of legal work requiring sufficient knowledge of legal concepts and that would be performed by an attorney in the absence of the paralegal.

(c) As used in this chapter, "paralegal work" means delegated legal work performed by a paralegal under the supervision of an attorney that would be performed by an attorney in the absence of the paralegal.

(d) As used in this chapter, "paralegal work experience" means paralegal work performed by a paralegal for a substantial amount of time while employed by a lawyer, law office, corporation, governmental agency, or other entity. The term does not include clerical work.

(e) As used in this chapter, "supervising attorney" means the attorney having direct supervision over a paralegal or the appropriate managing attorney of the law office, corporation, governmental agency, or other entity employing the paralegal.

Sec. 4. (a) An individual employed as a paralegal must meet one (1) of the following educational and work experience requirements:

(1) A high school education or its equivalent and a minimum of six (6) years of paralegal work experience in the preceding eight (8) years.

(2) An associate's degree in paralegal studies from an approved paralegal program and a minimum of three (3) years of paralegal work experience.



(3) An associate's degree in any area of study and a minimum of four (4) years of paralegal work experience.

(4) A bachelor's degree in paralegal studies from an approved paralegal program and a minimum of one (1) year of paralegal work experience.

(5) A bachelor's degree in any area of study and a minimum of two (2) years of paralegal work experience.

(6) An advanced degree in any area of study and a minimum of one (1) year of paralegal work experience.

(7) A certificate in paralegal studies from an approved paralegal program and a minimum of five (5) years of paralegal work experience.

(8) Successful completion of the Paralegal Advanced Competency Exam (PACE) as offered by the National Federation of Paralegal Associations and good standing with PACE.

(9) Successful completion of the Certified Legal Assistant/Certified Paralegal examination (CLA/CP) as offered by the National Association of Legal Assistants (NALA) and good standing with NALA.

(b) Written documentation of a paralegal's compliance with one (1) or more of the requirements described in subsection (a) shall be maintained, for the duration of the paralegal's employment, by the supervising attorney or supervising attorneys who employ the paralegal.

(c) A paralegal shall be responsible for providing a supervising attorney or supervising attorneys with the written documentation required by subsection (b).

(d) Only one (1) written document demonstrating a paralegal's compliance with subsection (a) shall be necessary per employing entity.

Sec. 5. (a) A paralegal shall complete not less than six (6) hours of continuing legal education per year. At least one (1) of the required six (6) continuing legal education hours shall be devoted to the matter of legal ethics. All continuing legal education hours must be approved by the Commission for Continuing Legal Education.

(b) A paralegal shall certify compliance with subsection (a) to the Commission for Continuing Legal Education.

Sec. 6. The following individuals may not be employed as a paralegal:

(1) A person who has been suspended or disbarred from the



practice of law in any state or jurisdiction.

(2) A person who has been convicted of a felony offense or its equivalent in any state or jurisdiction.

(3) A person who has been convicted of the unauthorized practice of law in any state or jurisdiction.

(4) A person undergoing a suspension, termination, or revocation proceeding by a professional organization, court, disciplinary board, or agency in any state or jurisdiction with respect to a:

(A) license;

(B) certification; or

(C) registration;

necessary for the practice of a profession.

(5) A person who fails to comply with the continuing legal education requirements described in section 5 of this chapter.

Sec. 7. (a) Not later than July 1, 2017, a paralegal shall register with the clerk of the supreme court for inclusion in the supreme court's paralegal registry described under IC 33-24-4-2(a)(8). A paralegal shall register with the supreme court not later than thirty (30) days after beginning initial employment as a paralegal.

(b) A paralegal shall register with the clerk of the supreme court by completing a written application on a form prescribed by the clerk of the supreme court.

(c) An eligible paralegal who meets the requirements of this chapter shall receive a registration card from the clerk of the supreme court after:

(1) the receipt of a complete application by the clerk of the supreme court; and

(2) the payment of any administrative fee required by the supreme court.

Sec. 8. (a) A paralegal shall submit an application for the renewal of a paralegal registration on or before the anniversary date of the second year of registration and every second year thereafter. The renewal application for paralegal registration shall be:

(1) submitted, electronically or in writing, on a form prescribed by a clerk of the supreme court; and

(2) accompanied by an administrative fee if required by the supreme court.

(b) A failure to renew a paralegal registration on or before the due date described in subsection (a) shall result in the assessment of a late fee to be determined by the supreme court.



1 (c) If an individual discontinues employment as a paralegal, a
 2 registration card issued under section 7(c) of this chapter shall
 3 remain valid until the date of expiration.

4 (d) The clerk of the supreme court may adopt rules in order to
 5 implement this section.

6 Sec. 9. (a) A paralegal may not:

7 (1) provide legal advice;

8 (2) represent a client in court;

9 (3) select, explain, draft, or recommend the use of any legal
 10 document to or for any person other than the supervising
 11 attorney responsible for directing the paralegal;

12 (4) engage in conduct that constitutes the unlawful practice of
 13 law;

14 (5) contract with or be employed by another person, other
 15 than a supervising attorney or supervising attorneys, to
 16 provide paralegal services;

17 (6) establish the fees to be charged to a client unless the fees
 18 are charged by the paralegal for services rendered to a
 19 lawyer, law office, corporation, governmental agency, or
 20 other entity for paralegal services; or

21 (7) perform paralegal work without:

22 (A) being registered with the clerk of the supreme court; or

23 (B) maintaining a valid paralegal registration.

24 (b) The registration review committee established by section 10
 25 of this chapter may revoke the registration of a paralegal who
 26 commits a violation under subsection (a)(1) through (a)(7).

27 (c) A paralegal who knowingly and intentionally violates
 28 subsection (a)(7) commits a Class C infraction.

29 Sec. 10. (a) The registration review committee is established.

30 (b) The purpose of the registration review committee shall be to
 31 review and act upon complaints seeking the revocation of a
 32 paralegal's registration and review of individuals performing
 33 paralegal work who have not registered under this chapter.

34 (c) The committee shall be comprised of the following
 35 individuals appointed by the chief justice of the supreme court:

36 (1) One (1) registered paralegal.

37 (2) One (1) active attorney in good standing with the Indiana
 38 Bar Association.

39 (3) One (1) judicial officer in good standing with the Indiana
 40 judiciary.

41 (d) Each member of the committee shall serve a three (3) year
 42 staggered term and may be reappointed for an additional



consecutive three (3) year term or be replaced as determined by the chief justice of the supreme court.

(e) Complaints shall be submitted to the clerk of the supreme court on a form prescribed as the "Affidavit of Complaint for Revocation of Paralegal Registration".

(f) Complaints may be submitted to the clerk of the supreme court for reasons including the following:

(1) Falsification of information provided by a paralegal on an application or renewal application for registration.

(2) Conviction of a felony offense in any state or jurisdiction.

(3) Conviction of the unauthorized practice of law in any state or jurisdiction.

(4) The performance of paralegal work without a valid paralegal registration.

(5) Other similar reasons.

(g) The subject of a complaint shall have the right to notice and the right to reply to the complaint in writing.

(h) The committee may interview parties and witnesses and conduct hearings if necessary.

(i) The decision of the committee shall be final and shall be reported to the clerk of the supreme court.

Sec. 11. An individual employed as a paralegal for not less than two (2) years before July 1, 2017, may register before August 1, 2017, with the clerk of the supreme court without meeting the registration requirements of this chapter upon doing all the following:

(1) Submitting an affidavit of past education.

(2) Submitting an affidavit from the supervising attorney or supervising attorneys for whom the paralegal has worked verifying the paralegal's employment as a paralegal for not less than two (2) years.

(3) Paying any administrative fee required by the supreme court for paralegal registration.

SECTION 8. IC 33-43-6 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2016]:

Chapter 6. Court Clerks

Sec. 1. As used in this chapter, "court clerk" means an individual who performs one (1) or more of the following duties for the benefit of a judicial officer:

(1) Assists with the preparation and execution of daily court calendars.



- (2) Administers oaths.
- (3) Records and updates court minutes as required.
- (4) Ensures the completeness and accuracy of court minutes.
- (5) Examines documentation tendered to the court for completeness of information, accuracy, and formatting.
- (6) File stamps, logs, and stores documentation tendered to the court for subsequent judicial review.
- (7) Receives, logs, and maintains custody of exhibits admitted into evidence during the course of a trial or hearing.
- (8) Sends notice of court actions and judicial rulings to relevant parties.
- (9) Calculates jury fees, mileage fees, and court reporter fees as needed.
- (10) Ushers jurors to and from court as needed.
- (11) Ensures that jurors, attorneys of record, litigants, and other essential witnesses are present before proceedings begin or are resumed.

Sec. 2. Not later than July 1, 2017, and except as provided in section 5(f) of this chapter, an individual employed as a court clerk must comply with this chapter.

Sec. 3. Except as provided under section 5(f) of this chapter, an individual employed as a court clerk must meet one (1) of the following educational or work experience requirements:

- (1) A high school diploma or its equivalent and a minimum of four (4) years of relevant work experience.
- (2) An associate's degree in any area of study and a minimum of three (3) years of relevant work experience.
- (3) A bachelor's degree in any area of study and a minimum of two (2) years of relevant work experience.
- (4) An advanced degree in any area of study and a minimum of one (1) year of relevant work experience.

Sec. 4. (a) Not later than July 1, 2017, a court clerk shall register with the clerk of the supreme court for inclusion in the supreme court's court clerk registry described under IC 33-24-4-2(a)(9). A court clerk shall register with the supreme court not later than thirty (30) days after beginning initial employment as a court clerk.

(b) A court clerk shall register with the supreme court by completing an electronic or written application form prescribed by the clerk of the supreme court.

(c) An eligible court clerk who meets the requirements of this chapter shall receive a registration card from the clerk of the supreme court after:



1 (1) the receipt of a complete application by the clerk of the
2 supreme court; and

3 (2) the payment of any administrative fee required by the
4 supreme court.

5 Sec. 5. (a) A court clerk shall submit an application for the
6 renewal of a court clerk registration on or before the anniversary
7 date of the second year of registration and every second year
8 thereafter. The renewal application for the court clerk registration
9 shall be:

10 (1) submitted electronically or in writing on a form prescribed
11 by the clerk of the supreme court; and

12 (2) accompanied by an administrative fee if required by the
13 supreme court.

14 (b) A failure to renew a court clerk registration on or before the
15 due date described in subsection (a) may result in the assessment
16 of a late fee to be determined by the supreme court.

17 (c) The clerk of the supreme court may adopt rules in order to
18 implement this section.

19 (d) If an individual discontinues employment as a court clerk, a
20 registration card issued under section 4(c) of this chapter shall
21 remain valid until the date of expiration.

22 (e) A court clerk who performs the duties described in section
23 1 of this chapter without being registered as a court clerk with the
24 clerk of the supreme court as described under section 4(a) of this
25 chapter commits a Class C infraction.

26 (f) A person employed as a court clerk for not less than two (2)
27 years before July 1, 2017, may register before August 1, 2017, with
28 the clerk of the supreme court without meeting the registration
29 requirements of this chapter upon doing all the following:

30 (1) Submitting an affidavit from the judge or judges for whom
31 the court clerk has worked verifying the court clerk's
32 employment as a court clerk for not less than two (2) years.

33 (2) Paying any administrative fee required by the supreme
34 court for court clerk registration.

